

Exhibit A

**FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SOUTHWEST KEY PROGRAMS, INC. §

Plaintiff, §

v. §

Civil Action No. 4:18-cv-3289

CITY OF HOUSTON §

Defendant. §

DECLARATION OF MARISELA SALDANA

1. My name is Marisela Saldana. I am over the age of 21, am of sound mind, and am capable of making the statements below.
2. I am the Regional Executive Director of Southwest Key Programs, Inc. (“Southwest Key” for the Houston/San Antonio Region.
3. Southwest Key is a non-profit corporation, incorporated in the State of Texas.
4. Southwest Key operates housing for unaccompanied immigrant minors who arrive into the United States.
5. Southwest Key plays no role in arresting or detaining immigrants. It does not separate children from their parents, and does not make or seek to influence any decision about the immigration status of any individual.

6. Southwest Key provides this housing at over twenty facilities in California, Arizona, and Texas, pursuant to contracts with the Federal Government's Office of Refugee Resettlement ("ORR"). Three of those facilities are in Houston, Texas.

7. Because of increased need for housing for these minors, Southwest Key sought to open a fourth facility in Houston.

8. We found a suitable building at 419 Emancipation Avenue, Houston, TX 77003 (the "Casa Sunzal Shelter").

9. Because of its prior use as a shelter, the Casa Sunzal Shelter was uniquely suited to both Southwest Key's and the government's purpose of providing care for minors in the least restrictive environment possible.

10. Southwest Key entered into a ten-year lease for the Casa Sunzal Shelter in May 2018.

11. While we originally intended to house newborns, and have proposed several revisions of the age range to the City, Southwest Key currently seeks to house minors aged 16 to 17 at Casa Sunzal. The children will all be capable of self-preservation without physical assistance.

12. Casa Sunzal will not house individuals who suffer any physical, mental, or other limitations which would render them unable to respond to an emergency

situation. No individuals with infirmities will be there. The occupants don't evacuate at a slower rate than the normal population.

13. The occupants of the Casa Sunzal Shelter will not be detained for penal or correctional purposes. It is not a penal or correctional facility, and the occupants will not be inmates.

14. The occupants will be at the Shelter to keep them safe until either a suitable relative or other adult assumes responsibility for them, or they are deported as a result of immigration proceedings.

15. The occupants of Casa Sunzal will be free to move about. No mechanical restraints will be used at the facility. There are no locks on internal or external doors, and while they are verbally discouraged from leaving, and the rules prohibit them from doing so, the children are able to leave the facility at any time.

16. Casa Sunzal is a shelter, not a medical or healthcare facility and nothing but the most routine medical care is provided (such a provision of a Band-Aid or handing children their prescription medication for self-administration).

17. The occupants of Casa Sunzal will be provided personal care, not custodial care. They must bathe themselves, dress themselves, use toilet facilities themselves, clean their own rooms, and are generally responsible for all other tasks of daily living.

18. The children must administer their own medication in accordance with Texas state law.

19. Much like any other dormitory, meals are prepared for the children.

20. Casa Sunzal is not a daycare facility: the occupants will be there 24/7 except for any field trips, medical appointments, court hearings, or similar brief absences. The occupants will sleep at the facility.

21. I lead the team at Southwest Key responsible for acquiring all the correct City and State permits to operate Casa Sunzal as a shelter for unaccompanied minors.

22. To operate, Casa Sunzal needs a General Residential Operation License (“GRO”) license from the Texas Health and Human Services (“THHS”)/Texas Department of Family and Protective Services (“DFPS”).

23. As part of the GRO licensing process, THHS/DFPS requires license applicants to be in compliance with required city permitting.

24. While a full inspection is not usually required when a duplicate application is filed, the City of Houston requested a full inspection of Casa Sunzal, and performed that inspection on April 24, 2018.

25. The City asked that Southwest Key make some minor changes to Casa Sunzal.

26. Southwest Key made those changes.

27. Between April 24th and June 7th, the City performed various follow-up inspections and confirmed that all the requested changes had been made, and that the building was otherwise code-compliant.

28. From these various inspections where inspectors could see the layout and the décor of the facility, the City could clearly see that the Shelter was intended to house unaccompanied children.

29. On June 8, 2018, the City issued a Certificate of Occupancy for the Casa Sunzal Shelter, authorizing its use as a “SHELTER/DORMITORY” with a Residential use classification per the Building Code.

30. On June 14, 2018, the Casa Sunzal Shelter underwent a fire safety inspection by the City’s Fire Marshal’s Office and received a “Safety Survey Approval” and fire permits.

31. Southwest Key submitted an application to the State for a GRO Child Care Services Only license to operate the Casa Sunzal Shelter. Following a request by the State, additional information and an amended application were submitted.

32. The State performed an inspection of the Shelter. Two minor plumbing issues were noted during that inspection, and those have been repaired.

33. The State informed Southwest Key that the Casa Sunzal Shelter was in compliance with all State standards.

34. Southwest Key received a copy of the August 16th letter sent by Chief Peña to the State in which he indicates that the Certificate of Occupancy issued by the City was “invalid.”

35. The State has informed me that due to this letter—and for no other reason—it is refusing to issue Southwest Key a GRO license for Casa Sunzal.

36. The State informed Southwest Key that, if Southwest Key did not withdraw its application for the license, the license will be denied, which would have negative consequences for any future license application made by Southwest Key.

37. Southwest Key withdrew its application for a State license, then resubmitted it on September 5, 2018.

38. As part of its review of this resubmitted application, the State performed another site inspection on October 10, 2018. Both orally (through Domanique Vital) and in writing, the State confirmed that the only “deficiency” i.e. the only reason the State would not issue a GRO license, was that the City—via Chief Peña’s letter—was maintaining that Casa Sunzal’s Certificate of Occupancy was invalid.

39. The Office of Refugee Resettlement (“ORR”) had initially informed Southwest Key that if it did not begin operation of the Casa Sunzal Shelter by October 28, 2018, ORR would defund the program and terminate the contract.

40. ORR has since waived that deadline and has not provided a new date, but has been clear that Southwest Key must put children in the Shelter very soon if it wants to retain its contract.

41. Southwest Key's not being able to open the Shelter would be an enormous loss to the children whom we are hoping to house in the facility.

42. It would also cause Southwest Key to incur many millions of dollars of damages due to money already invested into Casa Sunzal, future payment obligations which cannot be undone, and lost profits.

43. Attached to Plaintiff's Motion for Summary Judgment on its Declaratory Action and Request for Speedy Hearing Pursuant to FRCP 57 are the following documents:

- a. Attached as Exhibit B is a true and correct copy of an application for occupancy for 419 Emancipation Avenue, dated May 29, 2018;
- b. Attached as Exhibit C are true and correct copies of screenshots from the City of Houston website detailing inspection and certification activity at 419 Emancipation Avenue;
- c. Attached as Exhibit D are true and correct copies of operational permits for 419 Emancipation Avenue, issued by the City;
- d. Attached as Exhibit H is a true and correct copy of an email from M. McLeod RE 419 Emancipation Ave_ ILMS documents, dated June 19, 2018, as produced to Southwest Key in response to a Public Information Act request;
- e. Attached as Exhibit J is a true and correct copy of a letter from D. Montez to me, dated June 26, 2018;
- f. Attached as Exhibit K is a true and correct copy of a Child-Care Inspection Form for 419 Emancipation Avenue, dated August 2, 2018;

- g. Attached as Exhibit L is a true and correct copy of a letter from Chief Peña to A. Krause of August 16, 2018;
- h. Attached as Exhibit N is a true and correct copy of a Controlling Person Form, Child Care Licensing, which is the application for a GRO license, marked as “received” by the State on September 5, 2018;
- i. Attached as Exhibit O is a true and correct copy of a Child-Care Inspection Form which is a form provided to me by Texas Health and Human Services following an inspection conducted on October 10, 2018;
- j. Attached as Exhibit I is a true and correct copy of an email of A. Bernstein of June 17, 2018 RE Q&A memo on Southwest Key’s new lease in Houston and the new federal border policy, and an attachment to that email, as produced to Southwest Key in response to a Public Information Act request;
- k. Attached as Exhibit R are photographs of all the exits of the dormitory building of Casa Sunzal. The notice indicating that one of the doors is alarmed is inaccurate: the alarm is disabled.

44. I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 12, 2018



Marisela Saldana